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| Substitute for form 1449/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT <i>(Use as many sheets as necessary)</i> | | | | Complete if Known | |
| | | | | Application Number | 10/580,711-Conf. #3892 |
| | | | | Filing Date | May 18, 2007 |
| | | | | First Named Inventor | Klaus Benke |
| | | | | Art Unit | 1616 |
| | | | | Examiner Name | David Browe |
| Sheet | 1 | of | 1 | Attorney Docket Number | 11987-00043-US |

| U.S. PATENT DOCUMENTS | | | | | |
|-----------------------|-----------------------|---|--------------------------------|--|---|
| Examiner Initials* | Cite No. ¹ | Document Number Number-Kind Code ² (if known) | Publication Date MM-DD-YYYY | Name of Patentee or Applicant of Cited Document | Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear |
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| FOREIGN PATENT DOCUMENTS | | | | | | |
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| Examiner Initials* | Cite No. ¹ | Foreign Patent Document Country Code ³ -Number ⁴ -Kind Code ⁵ (if known) | Publication Date MM-DD-YYYY | Name of Patentee or Applicant of Cited Document | Pages, Columns, Lines, Where Relevant Passages Or Relevant Figures Appear | T ⁶ |
| | BA | WO-0215940-A2 | 02-28-2002 | Pharmacia Corp et al. | | |
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| NON PATENT LITERATURE DOCUMENTS | | | |
|---------------------------------|-----------------------|---|----------------|
| Examiner Initials | Cite No. ¹ | Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published. | T ² |
| | CA | European Patent Office Communication of a Notice of Opposition dated November 20, 2008. | X |
| | CB | Opposition to EP 1689370 B1 filed November 12, 2008 by ratiopharm GmbH | X |
| | CC | Reply to the Opposition filed June 15, 2009. | X |
| | CD | Reply to Patentee's Statement dated June 15, 2009, filed in European Patent Office on January 8, 2010. | X |
| | CE | Communication dated March 31, 2010 in Opposition to EP 1 689 370B1. | X |
| | CF | Datasheet for Zyvoxid from South African Electronic Package Inserts, 29 May 2001 | |
| | CG | AULTON, "Pharmaceutics: The Science of Dosage Form Design", 1998, pp. 136-137 and 154-156. | |
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*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. ¹ Applicant's unique citation designation number (optional). ² See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. ³ Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). ⁴ For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁵ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. ⁶ Applicant is to place a check mark here if English language Translation is attached.

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| Examiner Signature | | Date Considered | |
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